



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 5 1990

EPA Region 5 Records Ctr.



275175

REPLY TO THE ATTENTION OF

**ENFORCEMENT CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGED**

Lois J. Schiffer
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20530
Attention: George Schubert
Administrative Unit

Re: United States v. Elsa Skinner Morgan, et al.
Municipal Consent Decree
Skinner Landfill Superfund Site
West Chester, Ohio

Dear Ms. Schiffer:

Enclosed is a Consent Decree by which seven parties, all of which are municipalities, agree to pay a total of \$17,218.10 into the Skinner Landfill Special Account to fund the remedial action at the Skinner Landfill site located in West Chester, Ohio (Site). Under the proposed Consent Decree any remainder of the settlement will go to reimburse U.S. EPA for costs incurred in taking response actions at the Site. This settlement is being proposed under U.S. EPA's February 5, 1998, "Policy for Municipality and Municipal Solid Waste CERCLA Settlements at NPL Co-Disposal Sites" (MSW Policy).

The Site was once used for the mining of sand and gravel, and was operated as a landfill from approximately 1934 through 1990. Materials disposed of on the Site include construction and demolition debris, household refuse, and a wide variety of chemical wastes. A low area in the center of the Site, referred to as the waste lagoon, was used for the disposal of paint wastes, ink wastes, creosote, pesticides, and other chemical wastes. The Site has been in the Skinner family since 1931, except for Lot 15. Lot 15, which currently contains a large portion of the landfill area, was bought by the Skinner family in May 1963. The Site is currently owned by Elsa Skinner Morgan, the wife of the long-time operator of the landfill, Albert Skinner.

In 1982, U.S. EPA conducted a limited investigation for the purpose of scoring the Site for inclusion on the National Priorities List (NPL). This investigation showed that the groundwater southeast of the buried waste lagoon was contaminated with volatile organic compounds. The Site was placed on the NPL in December 1982.

The Record of Decision for the final operable unit at the Site, which was concurred in by Ohio EPA, was signed by the Regional Administrator on June 4, 1993. This final ROD, as modified by the U.S. EPA-approved remedial design, will be implemented under the requirements of a separate consent decree for the remedial action (RA Consent Decree) that is being referred under separate cover.

On March 29, 1994, U.S. EPA entered into an Administrative Order by Consent (AOC) with a group of generator PRPs (the Skinner Landfill PRP Group) for performance of the remedial design of the final remedy contained in the June 4, 1993 ROD. The remedial design, submitted by the AOC Respondents, was approved by U.S. EPA on June 18, 1996.

On January 8, 1997, U.S. EPA sent general notice letters to all parties which the Agency considered to be PRPs at the Skinner Site, inviting them to participate in an alternative dispute resolution (ADR) allocation procedure to allocate responsibility for clean-up costs at the Site. At about the same time that U.S. EPA sent notice of the initiation of the ADR allocation procedure, the Skinner Landfill PRP Group, with the exception of the Monsanto Company, filed a contribution lawsuit against most of the parties which were recipients of the January 8, 1997 letter, as well as the settling municipalities under the enclosed MSW Consent Decree (U.S. EPA, pursuant to its policies regarding municipal solid waste, had not issued general or special notice to these municipalities).

Although the ADR allocation process was initiated and convened by U.S. EPA, the Agency was not a party to the allocation, and did not participate in selecting the allocator. The judge in the contribution action brought by the PRP group issued a Case Management Order (CMO) that made the allocation process mandatory for parties to that litigation. Since U.S. EPA was not a party to the allocation process, and the CMO governing that process contains rather strict confidentiality provisions, with limited exceptions, the Agency only has available to it liability and volumetric information developed outside the context of the allocation procedure. The CMO does permit a party to disclose information pertaining to its own liability which was developed during the ADR. This information developed during the ADR was presented by the ADR allocator in the form of a final report. The settling municipalities submitted to U.S. EPA the findings in the final report that pertain to their own liability, and it is on the basis of these findings that U.S. EPA determined the settling municipalities are eligible for settlement pursuant to the MSW Policy.

The allocator did not apply the Agency's MSW Policy at the Site, which resulted in allocated amounts for municipalities several times those that would be calculated pursuant to the Policy. It was this discrepancy which led the settling municipalities to contact Region 5, seeking a

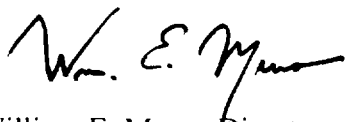
settlement under the MSW Policy. U.S. EPA has not previously offered a settlement to the parties to this proposed settlement.

The volume of waste and amount of settlement for each of the settling municipalities is presented in Appendix A to the enclosed MSW Consent Decree. After reviewing all of the information available to the Agency, it was determined that the settling municipalities were responsible for bringing municipal solid waste to the Site, and the terms of settlement, as presented in Appendix A, were calculated pursuant to the MSW Policy. In addition to household trash, some of the settling municipalities collected trash from commercial businesses, roadside debris, construction debris, yard waste and white ware. In some instances, the type of waste the municipality sent to the Site (e.g., construction debris), may be the same type of waste sent by other PRPs. The definition of "municipal solid waste" in the enclosed MSW Consent Decree includes household trash and solid waste collected from non-residential sources that is essentially the same as household waste and generally is composed of large volumes of non-hazardous substances. In accordance with OECA consultation procedures Region 5 coordinated with the Director, Regional Support Division, with respect to the eligibility of the settling parties for a settlement under the MSW Policy and on the terms of the proposed MSW Consent Decree.

I recommend that you file a complaint, execute the enclosed MSW Consent Decree and seek its early entry. As previously mentioned, the RA Consent Decree is being forwarded under separate cover. The MSW Consent Decree and RA Consent Decree are interrelated and should be presented to the court so that entry is simultaneous. In addition to funding the remedial action through the Skinner Special Account, the settling defendants under the RA Consent Decree waive their right to challenge entry of a final settlement under the MSW Consent Decree. The waiver provision is only effective if the MSW Decree is entered before, or with, the RA Consent Decree.

Elliot Rockler is the Department of Justice attorney assigned to the Skinner Landfill Site at the Department of Justice. As Mr. Rockler is currently detailed to the Defense Section, his senior attorney, Drenaye Houston, has also been instrumental in finalizing this settlement.

Sincerely,

A handwritten signature in black ink, appearing to read "W. E. Muno", with a stylized flourish at the end.

William E. Muno, Director
Superfund Division

Enclosure

cc: Steven Herman, Assistant Administrator
Office of Enforcement and Compliance Assurance

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	
)	
)	
ELSA MORGAN-SKINNER, ET AL)	
)	
Defendants.)	
_____)	

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CONSENT DECREE

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	
)	
ELSA MORGAN-SKINNER, ET AL)	
)	
Defendants.)	
_____)	

CONSENT DECREE

I. BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9606 and 9607, seeking injunctive relief regarding the cleanup of the Skinner Landfill Superfund site in West Chester, Ohio ("Site"), and recovery of costs incurred and to be incurred in responding to the release or threat of release of hazardous substances at or in connection with the Site.

B. As a result of the release or threatened release of hazardous substances at the Site, EPA has undertaken response actions at or in connection with the Site under Section 104 of CERCLA, 42 U.S.C. § 9604, and will undertake response actions in the future. In performing these response actions, EPA has incurred and will continue to incur response costs at or in connection with the Site including:

1. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on September 8, 1983, 48 Fed. Reg. 40658.

2. In May of 1991, EPA completed a Remedial Investigation ("RI") at the Site, and in April of 1992, EPA completed a Feasibility Study ("FS") of the Site. The RI and FS documented the release or threatened release of hazardous substances, pollutants, and contaminants at the Site. In accordance with Section 104(b) of CERCLA, the RI describes the EPA's findings on the nature and extent of contamination at the Site, while the FS Report considered alternatives necessary to address the conditions at the Site.

3. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notice of the completion of the FS and of the proposed plan for remedial action on May 27, 1992, in a major local newspaper of general circulation. EPA provided an opportunity for written and oral comments from the public on the proposed plan for remedial action. A copy of the transcript of the public meeting is available to the public as part of the administrative record upon which the Regional Administrator, or his/her delegee, based the selection of the interim response action.

4. EPA selected an "interim" remedial action to be implemented at the Site and embodied that decision in an interim Record of Decision ("interim ROD"), executed on September 30, 1992, on which the State had given its concurrence. The interim ROD includes EPA's explanation for any significant differences between the interim ROD and the proposed plan as well as a responsiveness summary to the public comments. Notice of the interim plan was published in accordance with Section 117(b) of CERCLA.

5. Subsequent to the issuance of the interim ROD, EPA issued a Unilateral

Administrative Order ("UAO"), to several potentially responsible parties at the Site, pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606, for the performance of the remedial actions identified in the interim ROD. Several parties complied with and completed the remedial actions specified in the UAO.

6. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, in December of 1992, EPA published notice of the proposed plan for final remedial action in a major local newspaper of general circulation. EPA provided an opportunity for written and oral comments from the public on the proposed final plan for remedial action. A copy of the transcript of the public meeting is available to the public as part of the administrative record upon which the Regional Administrator, or his/her delegatee, based the selection of the response action.

7. The decision by EPA on the final remedial action to be implemented at the Site was embodied in a final ROD ("ROD"), executed on June 4, 1993, on which the state has given its concurrence. The ROD includes a responsiveness summary to the public comments. Notice of the final remedial plan was published in accordance with Section 117(b) of CERCLA.

8. Subsequent to the issuance of the ROD, EPA and several potentially responsible parties at the Site entered into an Administrative Order by Consent ("AOC"), effective March 29, 1994, for the design of the remedial actions selected in the ROD. Pursuant to the AOC, the signatories to the AOC created the remedial design for the remedial action. EPA approved the remedial design on June 19, 1996.

C. The Regional Administrator of EPA, Region 5, or his/her delegatee, has determined the following:

1. Each Settling Defendant generated and/or transported only Municipal Solid Waste ("MSW") and/or Municipal Sewage Sludge ("MSS") to the Site.

2. Prompt settlement with each Settling Defendant is practicable and in the public interest.

3. The settlement amounts presented in Appendix A are based upon each Settling Defendant's contribution of waste to the Site, considering the volume and toxicity of the waste, and represent a fair and reasonable settlement of each Settling Defendant's liability at the Site for any claims the United States or any other person may have against each particular Settling Defendant arising from response actions taken or to be taken at the Site.

D. Based upon information provided by Settling Defendants, as determined pursuant to the Court-authorized ADR allocation process, and other relevant information, the United States estimates that Settling Defendants contributed Municipal Solid Waste or Municipal Sewage Sludge to the Site in the quantities shown in Appendix A.

E. Settling Defendants do not admit any liability to Plaintiff arising out of the transactions or occurrences alleged in the complaint.

F. The United States and Settling Defendants agree that settlement without further litigation and without the admission or adjudication of any issue of fact or law is the most appropriate means of resolving this action with respect to Settling Defendants.

G. The Parties agree and this Court, by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Consent Decree, it is ORDERED, ADJUDGED, and DECREED:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9606, 9607, and 9613(b), and also has personal jurisdiction over Settling Defendants. Settling Defendants consent to and shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree applies to and is binding upon the United States and upon Settling Defendants and their successors and assigns. Any change in a Settling Defendant's status as a municipal corporation or in a Settling Defendant's home rule powers, including, but not limited to, any transfer of assets or real or personal property, shall not alter such Settling Defendant's responsibilities under this Consent Decree.

IV. STATEMENT OF PURPOSE

3. By entering into this Consent Decree, the mutual objectives of the Parties are:

- a. to reach a final settlement among the Parties with respect to the Site that allows Settling Defendants to make a cash payment to resolve their alleged civil liability under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, for injunctive relief with regard to the Site and for Response Costs incurred and to be incurred at or in connection with the Site, whether incurred by the United States or by private parties, thereby reducing litigation and simplifying any remaining administrative and judicial enforcement activities concerning the Site; and

b. to obtain settlement with Settling Defendants for their appropriate share of Response Costs incurred and to be incurred at or in connection with the Site by the EPA Hazardous Substance Superfund, and by other responsible parties, and to provide for full and complete contribution protection for Settling Defendants with regard to the Site pursuant to Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2).

V. DEFINITIONS

4. Unless otherwise expressly provided herein, terms used in this Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in the statute or regulations. Whenever the terms listed below are used in this Consent Decree, the following definitions shall apply:

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.

"Consent Decree" or "Decree" shall mean this Consent Decree and all appendices attached hereto. In the event of conflict between this Consent Decree and any appendix, the Consent Decree shall control.

"Court-Authorized ADR Allocation Process" shall mean the alternative dispute resolution process mandated by the Court for the parties to the litigation, The Dow Chemical Company, et. al. v. Acme Wrecking Co., Inc. et al. (C-1-97-307) and The Dow Chemical Company, et al. v. Sun Oil Company d/b/a Sunoco Oil Corp., et al. (C-1-97-0308) (S.D. Ohio), which process was also participated in voluntarily by other parties allegedly implicated at the Skinner Landfill Site that were not named in the litigation.

"Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

"EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities.

"EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

"Interest" shall mean interest at the current rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).

"Municipal Solid Waste" shall mean household waste and solid waste collected from non-residential sources that is essentially the same as household waste. While the composition of such wastes may vary considerably, municipal solid waste generally is composed of large volumes of non-hazardous substances (e.g., yard waste, food waste, glass, and aluminum) and can contain small amounts of other wastes as typically may be accepted in RCRA Subtitle D landfills.

"Municipal Sewage Sludge" shall mean any solid, semi-solid, or liquid residue removed during the treatment of municipal waste water or domestic sewage sludge, including sewage sludge containing residue removed during the treatment of wastewater from manufacturing or processing operations, if such residue has essentially the same characteristics as residue removed during the treatment of domestic sewage sludge.

"Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

"Parties" shall mean the United States and the Settling Defendants.

"RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. § 6901, et seq. (also known as the Resource Conservation and Recovery Act).

"Record of Decision" or "ROD" shall mean the EPA Record of Decision relating to the Site signed on June 4, 1993, by the Regional Administrator, EPA Region 5, or his/her delegee, and all attachments thereto.

"Response Costs" shall mean all costs of "response" as that term is defined by Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

"Section" shall mean a portion of this Consent Decree identified by a roman numeral.

"Settling Defendants" shall mean those persons, corporations or other entities listed in Appendix A.

"Site" shall mean the Skinner Landfill Superfund site, encompassing approximately 67 acres, located ½ mile east of Interstate 75 on the Cincinnati-Dayton Road in West Chester, Union Township, Ohio, and legally described in Appendix B-1 and depicted generally on the map attached as Appendix B-2.

"United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

VI. PAYMENT

5. Within 30 days of the effective date of this Consent Decree, each Settling Defendant shall pay to the Skinner Landfill Special Account, in reimbursement of Response Costs, the amount set forth in Appendix A.

6. Each Settling Defendant's payment is to address Response Costs incurred at or in

connection with the Site.

7. Each payment shall be made by certified or cashier's check or checks made payable to the "Skinner Landfill Special Account," referencing USAO File Number _____, EPA Site-Spill Identification Number 0573, and DOJ Case Number 90-11-3-1620. Settling Defendants shall send the check to:

United States Attorney's Office
Southern District of Ohio
Attention: Collections
280 N. High Street, 4th Floor
Columbus, Ohio 43215

8. At the time of payment, each Settling Defendant shall send notice that such payment has been made to:

Chief, Environmental Enforcement Section
United States Department of Justice
DJ No. 90-11-3-1620
P.O. Box 7611
Washington, D.C. 20044-7611

Anthony Audia
U.S. EPA Region 5
Program Account and Analysis Section
Comptroller Branch, ML-10C
77 West Jackson
Chicago, Illinois 60604

Scott Hansen
Remedial Project Manager
Superfund Division, SR-6J
77 West Jackson
Chicago, Illinois 60604

Craig Melodia
Assistant Regional Counsel, C-14J
Office of Regional Counsel
77 West Jackson
Chicago, Illinois 60604

9. The total amount to be paid by Settling Defendants pursuant to Paragraph 5 shall be deposited in the Skinner Landfill Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to reimburse the United States for Response Costs incurred and paid at or in connection with the Site by the EPA Hazardous Substance Superfund. Any balance remaining in the Skinner Landfill Special Account shall be transferred by EPA to the EPA Hazardous Substance Superfund.

VII. FAILURE TO MAKE PAYMENT

10. If any Settling Defendant fails to make full payment within the time required by Paragraph 5, that Settling Defendant shall pay Interest on the unpaid balance. In addition, if any Settling Defendant fails to make full payment as required by Section VI, the United States may, in addition to any other available remedies or sanctions, bring an action against that Settling Defendant seeking injunctive relief to compel payment and/or seeking civil penalties under Section 122(l) of CERCLA, 42 U.S.C. 9622(l), for failure to make timely payment.

VIII. CERTIFICATION OF SETTLING DEFENDANT

11. By signing this Consent Decree, each Settling Defendant certifies, individually, that, to the best of its knowledge and belief, it has:

a. conducted a thorough, comprehensive, good-faith search for documents, and has fully and accurately disclosed to EPA all information currently in its possession, or in the possession

of its officers, directors, employees, contractors or agents, which relates in any way to the ownership, operation, or control of the Site, or to the ownership, possession, generation, treatment, transportation, storage or disposal of any hazardous substance, pollutant, contaminant, or solid waste at or in connection with the Site;

b. not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents, or other information relating to its potential liability regarding the Site after notification of potential liability regarding the Site; and

c. fully complied with any and all EPA requests for information regarding the Site pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e).

d. fully complied with any and all information disclosure and production obligations imposed upon or assumed by participants in the Court-Authorized ADR Allocation Process.

IX. COVENANT NOT TO SUE BY UNITED STATES

12. In consideration of the payments that will be made by each Settling Defendant under the terms of this consent decree, and except as specifically provided in Section X (Reservations of Rights by the United States), the United States covenants not to sue or take administrative action against any particular Settling Defendant pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607, relating to the Site. With respect to present and future liability, this covenant not to sue shall take effect for each Settling Defendant upon receipt of that Settling Defendant's payment as required by Section VI of this Consent Decree. With respect to each Settling Defendant, individually, this covenant not to sue is conditioned upon: a) the satisfactory performance by that Settling Defendant of all obligations under this Consent Decree, including, and not limited to, cash payment into the Skinner Landfill Special Account; and b) the veracity and completeness of the

information provided to EPA by that Settling Defendant relating to its involvement with the Site, and c) the veracity of the information provided by that Settling Defendant in the Court-Authorized ADR Allocation Process. This covenant not to sue extends only to each Settling Defendant and does not extend to any other person.

X. RESERVATIONS OF RIGHTS BY UNITED STATES

13. The United States reserves, and this Agreement is without prejudice to, all rights against Settling Defendants with respect to all matters not expressly included within the Covenant Not to Sue by the United States in Section IX. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to:

- a. liability for failure to meet a requirement of this Consent Decree;
- b. criminal liability;
- c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural damage assessments; or
- d. liability, based upon the ownership or operation of the Site or any activity with respect to a hazardous substance or a solid waste at or in connection with the Site, arising after signature of this Consent Decree by Settling Defendants.

14. Notwithstanding any other provision in this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to institute proceedings against any individual Settling Defendant in this action or in a new action or to issue an administrative order to any individual Settling Defendant seeking to compel that Settling

Defendant to perform response actions relating to the Site, and/or to reimburse the United States for additional costs of response, if:

a. new information, previously unknown, is discovered which indicates that any Settling Defendant contributed at least 10% more Municipal Solid Waste or Municipal Sewage Sludge than the amount indicated in Appendix A; or

b. information, previously unknown to EPA, is discovered, which indicates that such Settling Defendant contributed material containing hazardous substances to the Site other than Municipal Solid Waste or Municipal Sewage Sludge; or

c. conditions at the Site, previously unknown to EPA, are discovered, or information, previously unknown to EPA, is received, in whole or in part, and these previously unknown conditions or this information, together with other relevant information, indicate that the Remedial Action is not protective of human health or the environment, and that the conditions supporting the determination that the Remedial Action is not protective are based primarily on the presence of Municipal Solid Waste or Municipal Sewage Sludge at the Site.

15. For purposes of Subparagraphs 14(a) and 14(b), the information known to EPA shall include only that information known to EPA as of the date the Consent Decree is entered. For purposes of Paragraph 14(c), the information and conditions known to EPA shall include only that information and those conditions known to EPA as of the effective date of this Consent Decree, as set forth in the interim ROD and the ROD for the Site and the administrative record supporting the interim ROD and the ROD, post-ROD administrative record, any information submitted to EPA pursuant to the Remedial Design AOC, including the approved Remedial Design or the UAO.

XI. COVENANT NOT TO SUE BY SETTLING DEFENDANTS

16. Settling Defendants covenant not to sue and agree not to assert any claims or causes of action against the United States or its contractors or employees with respect to the Site or this Consent Decree including, but not limited to:

- a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606 (b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- b. any claim arising out of response activities at the Site; and
- c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site.

17. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

18. Settling Defendants covenant not to sue and agree to not assert any claims or causes of action against each other or any other person for all matters relating to the Site, including contribution.

XII. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

19. Except as provided in Paragraph 18, nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The United States reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action it may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

20. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of Response Costs, or other relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant action; provided, however, that nothing in this Paragraph affects the enforceability of the covenant not to sue included in Paragraph 12.

21. The Parties agree, and by entering this Consent Decree this Court finds, that each Settling Defendant is entitled, as of the date of entry of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for "matters addressed" in this Consent Decree. The "matters addressed" in this Consent Decree are all response actions taken or to be taken and all Response Costs incurred or to be incurred by the United States or any other person with respect to the Site.

XIII. RETENTION OF JURISDICTION

22. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

XIV. INTEGRATION/APPENDICES

23. This Consent Decree and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree. The following appendices are attached and incorporated into this Consent Decree:

"Appendix A" is the list of Settling Defendants, settlement amounts, and the estimated quantities of MSW and/or MSS contributed by each to the Site.

"Appendix B-1" is the legal description and "Appendix B-2" is the map of the Site.

XV. PUBLIC COMMENT

24. Pursuant to the provisions of CERCLA § 122(d)(2), 42 U.S.C. § 9622(d)(2), this Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States shall file with the Court any written comments received and the United States' response thereto. The United States reserves the right to withdraw or withhold its consent if comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper or inadequate. Settling Defendants consent to entry of this Consent Decree without further notice, and the United States reserves the right to oppose an attempt by any person to intervene in this civil action.

XVI. EFFECTIVE DATE

25. The effective date of this Consent Decree shall be the date of entry by this Court, following public comment pursuant to Paragraph 24.

XVII. SIGNATORIES/SERVICE

26. Each undersigned representative of a Settling Defendant to this Consent Decree and the Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice, or her delegee, certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such party to this document.

27. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendants in writing that it no longer supports entry of the Consent Decree.

28. Each Settling Defendant shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants hereby agree to accept service including, but not limited to, service of a summons, in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court.

29. Contemporaneous with the filing of the complaint in this action, the United States shall file a stipulation or motion for an extension of time to answer the complaint in favor of each Settling Defendant, which extension shall run until 30 days after the United States withdraws or withholds its consent pursuant to Section XV (Public Comment) or the Court declines to enter this Consent Decree.

SO ORDERED THIS ____ DAY OF _____, _____.

United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States of America v. Elsa Morgan-Skinner, et al.*, relating to the Skinner Landfill in West Chester, Ohio:

FOR THE UNITED STATES OF AMERICA

Date: _____

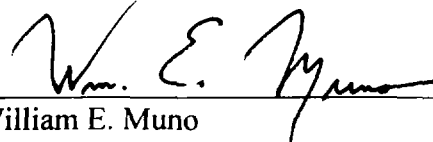
Lois J. Schiffer
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Elliot M. Rockler
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044

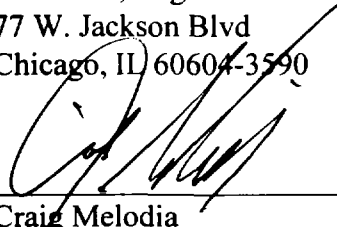
Sharon J. Zealey
United States Attorney
Southern District of Ohio

By: _____

Assistant U.S. Attorney
Southern District of Ohio
220 U.S.P.O. & Courthouse
5th & Walnut Sts.
Cincinnati, Ohio 45202



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Craig Melodia
Assistant Regional Counsel
Office of Regional Counsel, C-14J
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Blvd
Chicago, IL 60604-3590

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *United States of America v. Elsa Morgan-Skinner, et al.*, relating to the Skinner Landfill Superfund Site.

FOR DEFENDANT _____

Date: _____

Names and address of Defendant's signatories

Name: _____

Title: _____

Address: _____

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: _____

Title: _____

Address: _____

APPENDIX A

	<u>Quantity in Tons</u>	<u>Settlement</u>
1) <u>City of Blue Ash</u>	112.2	\$594.66
2) <u>City of Deer Park</u>	533.25	\$2,826.22
3) <u>City of Madeira</u>	624	\$3,307.20
4) <u>City of Mason</u>	90	\$477
5) <u>City of Sharonville</u>	296	\$1,568.80
6) <u>Village of Lincoln Heights</u>	1,420	\$7,526
7) <u>Village of Monroe</u>	173.25	\$918.22
		<hr/>
TOTAL SETTLEMENT = \$ 17,218.10		

Appendix B-1

Legal Description of Site

The Site is generally described as:

- (i) Parcel Nos. M5610-023-000-015 (24.852 acres), and M5610-023-000-055 (41.938 acres), and
- (ii) that part of Parcel No. M5610-023-000-025 (11.507 acres) lying north of a line drawn 65 feet southwesterly of and parallel with the northeasterly line of the parcel from Cincinnati Dayton Road to a point due south of the south corner of parcel M5610-023-000-054 (the so called "Post Office Parcel") and then to the east forming an exterior angle of 45 degrees with the last described line extended to the southeasterly line of the parcel (as shown on Appendix B-2)

together with a non-exclusive easement for ingress and egress to the Site over that part of the remainder of Parcel No. M5610-023-000-025 shown as "Access Easement" on Appendix B-2, and, if required by local planning authorities, a 5 foot wide utility easement adjacent to the southwest line of the 65 foot wide access to Cincinnati Dayton Road. A metes and bounds legal description of the Site and of the Access Easement may be prepared by a surveyor engaged by the Settling Generator/Transporter Defendants and, when prepared, shall be attached to and become part of this Appendix B-1.

SECTION 22, TOWN 3, RANGE 2

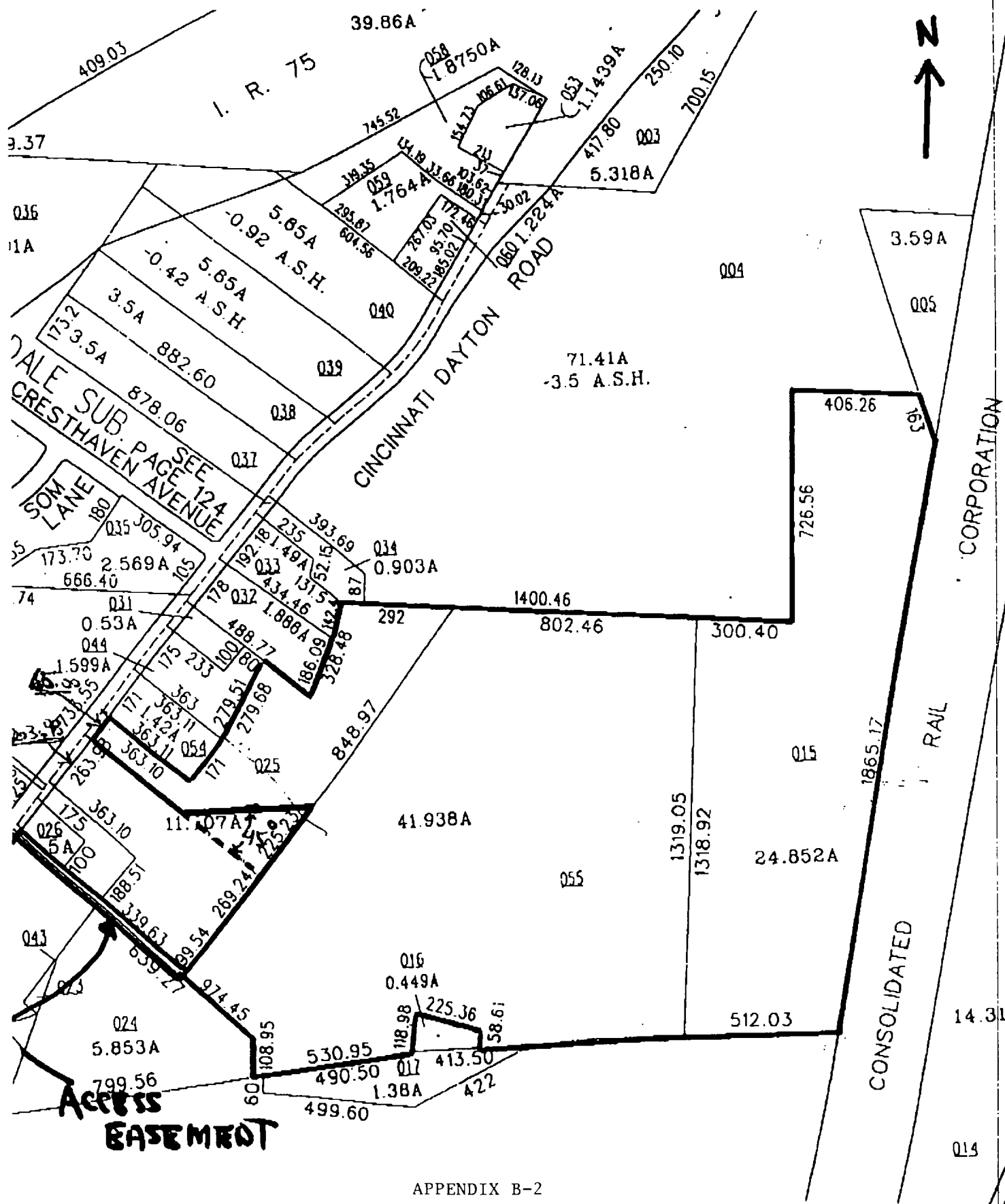


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